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REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicant respectfully asserts that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Status of Claims

Claims 40-42 are pending in the application. Claims 40-42 have been rejected.

CLAIM REJECTIONS

35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claims 40-42 under 35 U.S.C. § 103(a), as being unpatentable over Johnson et al. (US 6,497,599) in view of Xu et al. (US 6,501,732), and further in view of Hannel et al. (US Patent Application, Pub. No.: US 2008/0028436 A1). Applicant respectfully traverses these rejections of the pending claims because a prima facie case of obviousness has not been established. Applicant respectfully asserts that the combination of the three unrelated cited prior art references, at least two of which are associated with different fields of technological endeavor, neither teaches nor suggests all the claim limitations recited in each of the pending independent claims. More specifically, none of the three references, alone or in combination, teach or suggest the limitation of "...regulating data between the mobile device and the packet based data network based on information stored on a consideration related policy database which is connected on the data network through a second interface.", as recited in different variations in pending independent claims 40, 41 and 42.

More specifically, independent claims 40, 41 and 42, respectively, recite:

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40. A gateway to a **packet-based data network** comprising:

- a **transceiver adapted to establish a radio frequency link with a mobile device;**
- a **first interface adapted to facilitate data flow between the mobile device and the data network; and**
- a **controller adapted to regulate data flow between the mobile device and the data network based on information stored on a consideration related policy database, which is connected to the data network through a second interface.**

41. A communication system comprising;

- a **consideration-related policy database connected to a packet based data network through a second interface, two or more gateways functionally associated with a packet based data network, wherein each gateway comprises:**
 - a **transceiver adapted to establish a radio frequency link with a mobile device;**
 - a **first interface adapted to facilitate data flow between the mobile device and the data network; and a controller adapted to regulate data flow between the mobile device and the data network based on information stored on the consideration related policy database.**

42. A method of providing data to a mobile device comprising:

- establishing a data link between the mobile device and a radio frequency transceiver functionally associated with a packet based data network through a first interface;**
- regulating data between the mobile device and the packet based data network based on information stored on a consideration related policy database which is connected on the data network through a second interface.**

Whereas the three cited prior are references generally teach, respectively:

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Johnson reference

"A mobile communications system having a plurality of cells, with each cell being divided into a number of sectors. Each sector is allocated one of a corresponding number of channels of different frequencies. In addition, a plurality of time groups are defined, and a channel reuse pattern is provided that is based on both channel frequencies and time groups. In one arrangement, a 1/3 channel reuse pattern is provided to carry traffic signals in the system. For control signals, which are more susceptible to interference, a higher effective channel reuse pattern (e.g., 3/9 or 4/12) based on both frequency and time is employed." (Abstract)

Xu reference

"A system and method for controlling the flow of data from a data network to a mobile user over a wireless link. A data flow controller is provided in an inter-working gateway between the mobile switch center of the wireless network and the data network. The data flow controller determines the amount of available space in the mobile switch center buffer and ensures that the amount of data sent to the mobile switch center is no greater than the available buffer space. The data flow controller continually updates the available buffer space by determining the amount of data sent periodically to the mobile user according to a given airlink data rate. The data flow controller includes a buffer to store any remaining data that could not be sent to avoid overflowing the mobile switch center buffer." (Abstract)

Hannel reference

"A scalable access filter that is used together with others like it in a virtual private network to control access by users at clients in the network to information resources provided by servers in the network. Each access filter use a local copy of an access control database to determine whether an access request made by a user. Changes made by administrators in the local copies are propagated to all of the other local copies. Each user belongs to one or more user groups and each information resource belongs to one or more information sets. Access is permitted or denied according to of access policies which define access in terms of the user groups and information sets. The rights of administrators are similarly

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determined by administrative policies. Access is further permitted only if the trust levels of a mode of identification of the user and of the path in the network by which the access is made are sufficient for the sensitivity level of the information resource. If necessary, the access filter automatically encrypts the request with an encryption method whose trust level is sufficient. The first access filter in the path performs the access check and encrypts and authenticates the request; the other access filters in the path do not repeat the access check. A policy server component of the access filter has been separated from the access filter and the policies have been generalized to permit administrators of the policy server to define new types of actions and new types of entities for which policies can be made. Policies may now further have specifications for time intervals during which the policies are in force and the entities may be associated with attributes that specify how the entity is to be used when the policy applies." (Abstract)

As admitted by the Examiner, the Johnson reference fails to teach a **consideration related policy database which is connected to the data network**. The Examiner, however, fails to mention addition distinction between the primary cited reference and the pending claims. More specifically, whereas all the pending claims recite: (1) establishing a radio frequency link (e.g. wireless) between a mobile device and a gateway, and (2) the gateway regulating mobile device access to a packet based data network based on information from a consideration related policy database, the Johnson reference focuses its teachings specifically on bandwidth allocation of the RF link. There is no mention or suggestion of regulating access to a packet based data network from the gateway. Furthermore, Johnson teaches a cellular network and as is commonly known, cellular network architectures up until very recently were almost exclusively circuit switched based and not packet based. Thus, Johnson does not teach or suggest any form of access to a packet based data network.

In an erroneous attempt to cure at least the admitted deficiency of the primary reference, the Examiner cited the Xu reference, which reference was relied upon to address the consideration related policy database (connected to the packet based data network) recited in each of the pending claims. Applicant respectfully points the Examiner's attention to the fact that the Xu reference also focuses on a cellular architecture (not-packet based) and relates to a non-analogous technology from the one claimed. Namely, the Xu reference generally teaches a **cellular network, which is digital and data based, but is circuit**

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switched. Whereas, all the pending claims recite regulating access to a packet-based data network (e.g the Internet), the architecture of the data network taught by Xu is for the most part a wireless extension of a standard Public Switched Telephone Network ("PSTN"), which has been well known in the art for more than 100 years, and which is clearly different from the packet-based data network recited in all the pending claims. A combination of two unrelated architectures and methods of operation, in an attempt to render obvious a non-analogous system and method as recited in pending claims, seems to be overreaching and improper at best. Applicant respectfully asserts that anyone of ordinary skill in the art reading the teachings of the Xu and Johnson references, both of which relate to cellular circuit switched networks, would not consider applying their teachings (i.e. related to RF management and policy based buffer management techniques) to the gateway, communication system and method claimed in the pending claims - as each of the pending claims is specifically directed to regulating access of a wireless device (not RF bandwidth or buffer size) to a packet based network to which the gateway is connected (e.g. Internet) based on information found on a consideration related policy database also connected to the packet based network.

Furthermore, even if one were to overlook these fundamental distinctions, Applicant submits that the Xu reference simply fails to teach a consideration related policy database which is (a) connected to a packet based network, and (b) accessed by a gateway. Both of these limitations are missing from the policy database (i.e. authentication server) of Xu. The Xu reference simply teaches an authentication server (including a database) accessed by a Mobile Switch Center ("MSC") managing a plurality of wireless access points (e.g. base stations). Aside and apart from the fact the authentication server of Xu is not accessed by the gateway and is not connected to a packet based network, the description of the Xu reference's authentication server makes no mention of consideration related policies. As is well known, in most cellular network architectures the billing database (i.e. consideration related database) and the authentication database are not the same. Although the billing database may be used to update the authentication database, the two are separate and distinct entities. Based on the above explanation, it should be clear that the authentication server taught in Xu is not a consideration related policy database accessible by an access point (i.e. RF to packet based network gateways) - as claimed. The Xu reference clearly fails to teach a consideration

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related policy database used by an RF gateway to a **packet-based network**, as recited in all the pending independent claims.

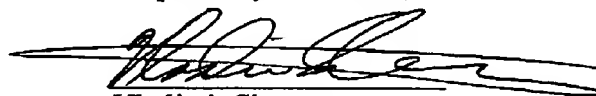
Applicant is somewhat perplexed by the Examiner's selection of the Hannel reference. Hannel teaches a virtual Private network architecture, where one or more servers of the architecture are behind an access filter. These access filters regulate access to one or more network resources (i.e. servers) and operate based on local copies of a policy database, which policy database is not consideration based. Aside and apart from this reference having little to do with the claimed subject-matter in the pending claims, it clearly fails to remedy any of the deficiencies of the primary and secondary references – namely the absence of any teaching or suggestion of using a consideration related policy database for use by an RF to data packet based network gateway, where the consideration related policy database is connected to the data packet based network.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 103 rejections of independent claims 40-42.

In view of the foregoing clarifications and remarks, all the pending claims are considered to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Respectfully submitted,



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Dated: March 1, 2010